IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JANE FAUST,	:	**CIVIL ACTION**
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
MICHAEL FITZPATRICK,	:	
CHARLES MARTIN,	:	
and SANDRA MILLER, County	:	
Commissioners Acting as the	:	
Bucks County Board of	:	
Elections and Registration Commission	:	
for the 2002 Elections and	:	
DEENA K. DEAN, Director Board of	:	
Elections and Registration Commission	:	
County of Bucks County,	:	
	:	
Defendant.	:	**NO. 02-2428**

Reed, S. J. **May 16, 2002**

M E M O R A N D U M

Currently pending before the Court is plaintiff's motion for preliminary injunction (Doc. No. 3), and the response thereto (Doc. No. 6). For the reasons sets forth below, and after a hearing thereon, the action will be dismissed for lack of subject matter jurisdiction.

Background

On September 20, 1996, plaintiff Jane Faust was found guilty of violating Sections 3513 and 3514 of the Pennsylvania Election Code while running for the office of "committee woman" in the general primary election for the Republican party for the upper five district of Bensalem Township. See Commonwealth v. Faust, 702 A.2d 598, 600-01 (Pa. Cmwlth 1997);

Commonwealth v. Faust, 70 Bucks Co. L. Rep. 31, 32 (Pa. Ct. Com. Pl., Bucks County, 1997).[1] Plaintiff was sentenced to a year of probation and was disenfranchised for a period of four years pursuant to Section 3552 of the Pennsylvania Election Code. See Faust, 702 A.2d at 600.

On March 11, 2002, plaintiff again filed a petition to run for the position of "committee woman" in the upper five district of Bensalem Township. On March 13, 2002, defendant Deena Dean, Director of the Board of Elections, sent a letter rejecting plaintiff's petition pursuant to Section 3551 of the Election Code. Section 3551 provides:

> Any person who shall, while a candidate for office be guilty of bribery, fraud or willful violation of any provision of this Act, shall be forever disqualified from holding said office or any other office of trust or profit in this Commonwealth.

25 Pa. C. S. §3551.

On March 20, 2002, plaintiff filed suit in the Court of Common Pleas of Bucks County asserting claims under 42 U.S.C. § 1983, alleging violations of her civil and constitutional rights, and under 25 P. S. § 2936. Plaintiff filed a motion for preliminary injunction seeking to enjoin defendants from further violations of her civil and constitutional rights and to have her name placed on the May 21, 2002 general primary ballot. Upon holding a hearing, Judge R. Barry McAndrews denied plaintiff's motion on April 2, 2002. (Order dated April 2, 2002, Faust v. Martin, Civ. No. 02-01846-25-5, Court of Common Pleas of Bucks County). Upon denial of her motion, on April 25, 2002, plaintiff was permitted by the Prothonotary of the Bucks County Court of Common Pleas to withdraw her complaint.

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[1] Having admitted into evidence the relevant portions of the records of both the state court criminal and civil proceedings cited herein by agreement of the parties, the Court will refer to such records directly. The Court has reviewed all relevant documents as requested by the parties. The underlying facts are not in controversy.

On the same day as the withdrawal of her suit in state court, Ms. Faust filed suit in this Court, asserting violations of her First, Fifth and Fourteenth Amendment rights under the U.S. Constitution. She filed the instant motion for preliminary injunction, seeking again to enjoin defendants from further violations of her civil and constitutional rights and to have her name placed on the May 21, 2002 general primary ballot. A hearing was held in this Court on May 15, 2002.

Legal Analysis

Federal courts have a *sua sponte* obligation to plumb their jurisdiction. See Employers Ins. of Wausau v. Crown Cork & Seal Co., 905 F.2d 42, 45 (3d Cir. 1990); see also Meritcare Inc. v. St. Paul Mercury Ins. Co., 166 F.3d 214, 217 (3d Cir. 1999) (holding that a district court may "address the question of jurisdiction, even if the parties do not raise the issue") (quoting Liberty Mut. Ins. Co. v. Ward Trucking Corp., 48 F.3d 742, 750 (3d Cir. 1995)). Therefore, I am bound to determine whether this Court may exercise jurisdiction over this action. Although neither briefed nor argued by the parties, the facts make apparent that under the Rooker-Feldman doctrine, this Court lacks jurisdiction over the instant action.

The Rooker-Feldman doctrine is said to have been derived from 28 U.S.C. § 1257, which states that "final judgments or decrees rendered by the highest court of a state in which a decision could be had, may be reviewed by the Supreme Court . . . ." This was interpreted in Rooker v. Fidelity Trust Co., 263 U.S. 413, 416, 68 L. Ed. 2d 362, 44 S. Ct. 149 (1923) and District of Columbia Court of Appeals v. Feldman, 460 U.S. 462, 482, 75 L. Ed. 2d 206, 103 S. Ct. 1303 (1983), to mean that only the United States Supreme Court could review final adjudications of the state's highest court. Accordingly, "federal district courts lack subject matter jurisdiction to

review final adjudications . . . or to evaluate constitutional claims that are 'inextricably intertwined with the state court's [decision] in a judicial proceeding.'" Guarino v. Larsen, 11 F.3d 1151, 1156 - 57 (3d Cir. 1993) (quoting Blake v. Papadakos, 953 F.2d 68, 71 (3d Cir. 1992) (internal citations omitted)). The Third Circuit Court of Appeals has extended this doctrine to bar federal district court review of adjudications by lower state courts, reasoning that decisions by lower state courts are subject to review within the state court system. See Port Auth. Police Benev. Ass'n v. Port Auth, 973 F.2d 169, 178 (3d Cir. 1992) (Rooker-Feldman doctrine barred district court review of New York state court order granting preliminary injunction). Part of the justification for the doctrine is derived from issues of federalism and comity; "[j]ust as federal district courts should presume that pending state court proceedings can correctly resolve federal questions, they should also presume that completed state court proceedings have correctly resolved these questions." Guarino, 11 F.3d at 1157.

"The Supreme Court has defined an adjudication as involving the application of existing law to the facts of a particular case." Valenti v. Mitchel, 962 F.2d 288, 296 (3d Cir. 1992) (citing Feldman, 460 U.S. at 479. Plaintiff filed a motion in the Bucks County Court of Common Pleas for preliminary injunction, seeking to have her name placed on the May 21, 2002 general primary ballot. The order issued by the Bucks County Court of Common Pleas on April 2, 2002, denying plaintiff's motion was an "adjudication" of her claims. Plaintiff has not disputed the finality of that order. Although the order was a summary denial without discussion of the merits of plaintiff's constitutional claims, this does not prevent the application of the Rooker-Feldman doctrine. See Guarino, 11 F.3d at 1160 (citing Feldman, 460 U.S. at 483 n. 16); cf. Gulla v. North Strabane Township, 146 F.3d 168 (3d Cir. 1998) ("[A] paucity of explicit analysis in the

court's opinion will not strip the holding of its validity for purposes of Rooker-Feldman's jurisdictional bar.") As in Feldman, plaintiff raised her legal claims in the motion for preliminary injunction; the memorandum submitted to the Bucks County Court of Common Pleas in support of her motion clearly argued that the action of the Board of Elections had willfully violated plaintiff's rights under First and Fourteenth Amendment. By denying plaintiff's motion, the Bucks County Court of Common Pleas thereby denied her legal claims.

In the instant action, although plaintiff has not requested a direct review of the denial of her motion filed in state court, in essence this is what is being demanded of the Court. The Rooker-Feldman doctrine applies when "'the relief requested in the federal action would effectively reverse the state decision or void its ruling.'" FOCUS v. Allegheny County Court of Common Pleas, 75 F.3d 834, 840 (3d Cir. 1996) (quoting Charchenko v. City of Stillwater, 47 F.3d 981, 983 (8th Cir. 1995)). The relief requested in the motion currently pending is placement of plaintiff's name on the May 21, 2002 general primary ballot. I find that plaintiff has requested the same relief for the same alleged constitutional violations incurred by defendants arising from the same incident as that complained of in her civil action in the Bucks County Court of Common Pleas. I conclude that the claims are "inextricably tied" to the issues decided in the state court. Were the Court to grant the requested relief, it would in effect void the previous denial of plaintiff's motion by Judge McAndrews. Accordingly, I conclude that the instant action is outside of the subject matter jurisdiction of this Court.

At oral argument, counsel for plaintiff took the position that because plaintiff did not raise her Fifth Amendment claim in her motion in state court, it is not barred by the Rooker-Feldman doctrine in federal court. Nevertheless,

> [w]here a litigant expects that a court is willing to consider its legal claims, raises some of those claims, and has those claims adjudicated, it makes sense to apply normal principles of claim preclusion to hold that the litigant has waived any legal claims he or she fails to raise which have arisen from the same transaction as those claims a litigant did raise.

Guarino, 11 F.3d at 1160. Indeed, the argument currently advocated by plaintiff was also raised and dismissed under claim preclusion principles in Valenti, 962 F.2d at 296, which had similarly arisen in the context of an impending primary election. In Valenti, the Pennsylvania Supreme Court had revised the election calendar, leading to a suit in state court in which some candidates alleged that the new deadline for filing nominating petitions to the state primary election violated their rights to equal protection. Upon a denial of their state court petition, the same candidates filed a petition in district court alleging that the deadline violated their rights to both equal protection and free speech. The Third Circuit Court of Appeals held that notwithstanding the introduction of the first amendment claims, the Rooker-Feldman doctrine still barred their petition, stating: "Under principles of claim preclusion, [the plaintiffs] had a full and fair opportunity to litigate their first amendment claim in the state court, and here they merely seek a second bite at the apple." Id. Where plaintiffs had an opportunity to raise the constitutional challenge and failed to do so, they would not be "allowed to escape Rooker-Feldman by raising a new constitutional theory in federal court." Id. (citing Feldman, 460 U.S. at 482 ("By failing to raise his claims in state court a plaintiff may forfeit his right to obtain review of the state-court decision in any federal court.")). Thus, I conclude that plaintiff has waived her Fifth Amendment claim by failing to present it in her motion for preliminary injunction in the Bucks County Court

of Common Pleas.[2]

Conclusion

For the foregoing reasons, I conclude that the court is jurisdictionally barred from entertaining the instant motion and from adjudicating plaintiff's action. Accordingly, the action will be dismissed for lack of subject matter jurisdiction.

An appropriate Order follows.

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[2] Plaintiff has argued that the application of Section 3551 of the Pennsylvania Election Code to prevent plaintiff from running for committee woman constitutes an impermissible second punishment for her conviction in violation of her rights under the double jeopardy clause of the Fifth Amendment. I note that even were plaintiff's Fifth Amendment claim not barred, it would have been dismissed on its merits. The disqualification from office is not a sentence or punishment for plaintiff's conviction, but merely its effect. Cf. Moskowitz's Registration Case, 329 Pa. 183, 186-87 (1938) (analyzing language of disenfranchisement and disqualification clauses in Pennsylvania Constitution) (noting that because only "guilt" of act and not conviction is necessary for application of clause, disqualification cannot be considered a penalty).

I also note that plaintiff's equal protection and free association claims, had they been permitted to proceed, would likely have been to no avail for reasons explored in Berg v. Egan, 979 F. Supp. 330, 336 (E.D. Pa. 1997) (Robreno, J.) (applying balancing test in assessing rights of prospective candidates to appear on the ballot) (finding state's interest in excluding from ballot candidates who would not be allowed to fulfill position and in preserving integrity of the electoral process is recognized and legitimate).

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	:	
Defendant.	:	**NO. 02-2428**

O R D E R

AND NOW, on this 16th day of May, 2002, upon consideration of plaintiff's motion for preliminary injunction (Doc. No. 3), the response thereto (Doc. No. 6), the supplemental memoranda and supporting materials, and having held a hearing on May 15, 2002, and for the reasons set forth in the foregoing memorandum, **IT IS HEREBY ORDERED** this action is **DISMISSED** for lack of subject matter jurisdiction. The Court is thereby precluded from consideration of the motion.

This is a Final Order.

LOWELL A. REED, JR., S.J.